IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

OP.No. 22500 of 2002(C)

PETITIONER:

NASHIDA, AGED 11 YEARS, REPRESENTED BY
HER FATHER AND NATURAL GUARDIAN, SRI.NASSAR,
RESIDING AT KALLUNGAL HOUSE, PAZHAGAD DESOM,
EDAVANAKKAD VILLAGE, ERNAKULAM DISTRICT.

BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS

RESPONDENTS:
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1. ABDUL GAFOOR, S/O.KASSIM, AGED 37 YEARS,
RESIDING AT RETNAPURIYIL HOUSE, NEAR
GOODS SHED, FACTORY ROAD, ERNAKULAM.

2. JOSHI, S/O.DHARMARAJAN, AGED 43 YEARS,
RESIDING AT EDEKKALPARAMBIL HOUSE,
THEKKUMBHAGAM, KANNANKULANGARA, NADAMA
VILLAGE, ERNAKULAM DISTRICT.

3. UNITED INDIA INSURANCE CO.LTD.,
ERNAKULAM BRANCH, ERNAKULAM.

4. M.K.JAMAL, S/O.MOHAMMED, RESIDING
AT KOLLAMPARAMBIL HOUSE, VENNALA,
COCHIN - 682 025.

5. SHOUKATH ALI K.B., RESIDING AT
EDAPPALLY, COCHIN - 682 024.

6. UNITED INDIA INSURANCE CO.LTD.,
BRANCH OFFICE, MUNICIPAL OFFICE ROAD,
ELOOR SOUTH, UDYOGAMANDAL - 683 501.

7. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.S.K.MOHAMED SAJEER
GOVERNMENT PLEADER
SMT.K.C.BEENA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

O.P.22500/2002

PETITIONER'S EXHIBITS:

1. EXHIBIT.P1: COPY OF THE ORDER IN O.P (MV) NO.3371/1995 OF M.A.C.T. ERNAKULAM.

(TRUE COPY)

(P.A. TO JUDGE)

S.SIRI JAGAN, J.

O.P No.22500 of 2002

Dated this the 18th day of January, 2007

JUDGMENT

Petitioner in this case is a minor represented by her father and natural guardian. She is challenging Ext.P1 Judgment of the Motor Accidents Claims Tribunal, Ernakulam in O.P (MV) No.3371/1995 by which the petitioner's application for compensation for the injuries sustained by her in a motor accident has been ordered to be struck off the file on the ground that the procedure prescribed under the Civil Procedure Code for filing a petition on behalf of minor by a next friend has not been complied with. I have heard both sides. I am of opinion that the Tribunal have taken a too technical attitude in this case. In Motor Accidents Claims Tribunal, especially those filed on behalf of minors, a more lenient attitude ought to have been taken. When the procedure to be complied with for filing petition on behalf of minor is not complied with the Tribunal ought to have at least given

an opportunity to the petitioner to cure the defects, if any, before deciding to strike the petition off the file as he has done in Ext.P1.

2. In the above circumstances, I quash Ext.P1 and direct the Motor Accidents Claims Tribunal, Ernakulam to restore O.P (MV) 3371/95 on file and try the same again after giving an opportunity to the petitioner to cure the defects, if any, in the matter of non-compliance with the procedure usually adopted for filing petition on behalf of a minor. Since the Original Petition is of the year 1995, the Motor Accidents Claims Tribunal shall strive to dispose of the matter within six months from the date of receipt of a copy of this Judgment.

(S.SIRI JAGAN, JUDGE)

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